

Decision 04-07-016 July 8, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Antelope Valley Bus, Inc., Transferor, and CUSA CC, LLC, dba Airport Bus of Bakersfield and Antelope Valley Bus, Transferee, for approval of the transfer of the operating authority held by Transferor in Passenger Stage Corporation Certificates 1166 and/or 639 from Transferor to Transferee, pursuant to the provisions of Public Utilities Code Sections 851 et seq.

Application 03-12-014
(Filed December 10, 2003)

O P I N I O N

Summary

This decision grants the application to transfer, pursuant to Pub. Util. Code § 851 et seq., passenger stage corporation (PSC) certificates from Antelope Valley Bus, Inc. (Transferor), a corporation, to CUSA CC, LLC, a limited liability company, doing business as Antelope Valley Bus and Airport Bus of Bakersfield (Transferee).

Discussion

Transferror holds two certificates of public convenience and necessity to operate as a PSC. One (PSC-1166) authorizes scheduled service between Bakersfield and Los Angeles International Airport. Transferror acquired the certificate through its purchase of Airport Bus of Bakersfield, Inc., as authorized

by Decision (D.) 88-04-051.¹ The second certificate (PSC-639) authorizes various operations, primarily home-to-work services and services contracted with public agencies in the Antelope Valley and neighboring areas. The certificate was originally granted by D.54813, dated April 9, 1957, and revised many times thereafter. With one exception, Transferor is not currently operating the services authorized by PSC-639. The services were suspended (some as early as the 1970s and 1980s) due to lack of passenger demand. The exception is an on-call service to Los Angeles and Long Beach Harbors that Transferor operates in response to cruise ship dockings and departures.

The assets of Transferor were acquired in 2003 by KBUS Holdings, LLC, a noncarrier holding company, as part of a major financing transaction that involved numerous bus companies holding interstate operating authority from the Federal Motor Carrier Safety Administration. The federal Surface Transportation Board approved the transaction by STB Docket No. MC-F-21000, with a service date of July 23, 2003, and an effective date of September 8, 2003.² KBUS Holdings, LLC created Transferee for the purpose of conducting the PSC operations heretofore performed by Transferor.

By this application, as amended by letter dated April 23, 2004, Transferor and Transferee seek to satisfy the regulatory requirements of the Commission by requesting approval to transfer the operating rights described in PSC-1166 and

¹ D.88-04-051 authorized Antelope Valley Bus, Inc. to acquire the stock and control of Airport Bus of Bakersfield, Inc. Subsequently, in 1992, Airport Bus of Bakersfield, Inc. was merged into Antelope Valley Bus, Inc.

² To the extent that it conducts interstate and intrastate transportation over the same routes, Transferor believes the federal preemption contained in 49 U.S.C.A. § 14501 applied to this matter.

that portion of PSC-639 that authorizes service to Los Angeles and Long Beach Harbors. The other services authorized by PSC-639 that were suspended by Transferor will not be operated by Transferee and therefore may be revoked. Transferee will operate its business under the names Airport Bus of Bakersfield and Antelope Valley Bus. KBUS Holdings, LLC will continue to control Transferee after the transfer is completed.

Attached to the application as Exhibit B is Transferee's financial statement as of July 2003 that discloses assets of \$12,500,000, liabilities of \$800,000, and "parent company funding" of \$11,700,000. Exhibit C of the application is a list of 110 buses that Transferee will use to conduct PSC and charter services.³

Notice of filing of the application appeared in the Commission's Daily Calendar on December 12, 2003. In Resolution ALJ 176-3125 dated December 18, 2003, the Commission preliminarily categorized the application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3125.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

³ Transferee was issued a Class-A charter-party carrier certificate (TCP-16907-A) on December 17, 2003.

Findings of Fact

1. Transferor is authorized to operate as a PSC under PSC-1166 and PSC-639.
2. This application requests approval to transfer PSC-1166 and the part of PSC-639 that authorizes service to and from Los Angeles and Long Beach Harbors.
3. Transferee is controlled by KBUS Holdings, LLC.
4. Transferee has the financial ability to assume the operation of Transferor's PSC business.
5. The proposed transfer will not be adverse to the public interest.
6. The part of PSC-639 that is not being exercised and will not be transferred to Transferee may be revoked.
7. No protest to the application has been filed.
8. A public hearing is not necessary.
9. It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized.
2. Since the matter is uncontested, the decision should be effective on the date it is signed.
3. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. Within 120 days from the effective date of this decision, Antelope Valley Bus, Inc. (Transferor), a corporation, may transfer the operative rights specified in this application to CUSA CC, LLC, a limited liability company, subject to the conditions contained in the following paragraphs.

2. Transferee shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service within 120 days after this order is effective, adopt Transferor's tariffs and timetables or issue new tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective and allow at least 10 days' notice to the Commission.
- c. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- d. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Transferee is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Transferee that its evidence of

insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the CHP has approved the use of Transferee's vehicles for service.

4. The Certificates of Public Convenience and Necessity (CPCN) held by Transferor under PSC-1166 and PSC-639 are revoked on the date Transferee is notified that it may commence operations as provided in Ordering Paragraph 3.

5. Before beginning service to any airport, Transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property without authority from the airport's governing body.

6. The CPCN to operate as PSC-16907, granted herein, shall expire unless exercised within 120 days after the effective date of this order.

7. The Application is granted as set forth above.

8. This proceeding is closed.

This order is effective today.

Dated July 8, 2004, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-16907

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes the authority heretofore granted to
Airport Bus of Bakersfield, Inc., a corporation, and
Antelope Valley Bus, Inc., a corporation.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

This certificate supersedes all passenger stage operative authorities granted to Airport Bus of Bakersfield, Inc., a corporation, and Antelope Valley Bus, Inc., a corporation.

CUSA CC, LLC, a limited liability company, doing business as Antelope Valley Bus and Airport Bus of Bakersfield, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers, their baggage, and express on a scheduled and on-call basis between the points and over the routes described in Section II, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- A. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- B. Scheduled and on-call service will be operated only at the designated cities and communities described in Section II. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.

- C. The term "on call," as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- D. No passengers shall be transported except those having a point of origin or destination as described in Section II.
- E. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. ROUTE DESCRIPTIONS.

Scheduled Service

Commencing at any point in Bakersfield, then over the most convenient streets and highways to Los Angeles International Airport (LAX).

On-Call Service

Commencing at any point in Bakersfield, then over the most convenient streets and highways to Los Angeles Harbor and Long Beach Harbor. Carrier may at its option operate this service via Lancaster and Palmdale.